

BUREAU OF TELECOMMUNICATIONS, PETITIONER-APPELLANT, VS. THE PUBLIC SERVICE COMMISSION AND THE PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, RESPONDENTS-APPELLEES.

G.R. No. L-27412. October 28, 1969

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

The Bureau of Telecommunications seeks the review of a decision of the Public Service Commission, the dispositive part of which reads:

"IN VIEW OF THE FOREGOING, the said respondent is hereby directed to submit to this Commission within thirty (30) days from receipt of this decision, a copy of the schedule of rates it follows, in the operation of its tele-phone services, local as well as long distance. Upon receipt of this decision, the respondent Bureau of Telecommunications is hereby en-joined from enforcing its present rates on its long distance service and local telephone service, without the approval of the PSC previously obtained, unless the said rates are identical to the rates already authorized by the Commission to the complainant herein and other parties in the same areas where they are presently op-erating."

Respondent Philippine Long Distance Telephone Company is a public utility corporation and the grantee of a legislative franchise to install, maintain and operate telephone systems throughout the Philippines. On February 18, 1965, the Com-pany filed, with the Public Service Commission, a complaint, against the Bureau of Telecommunications, alleging that the same had "been operating its telephone services within the City of Manila and other areas in the Philippines, without submitting" to the Commission, "for its approval, the rates actually being charged by it" (the Bureau) for "said telephone services" and that the Bureau had "inaugurated a long distance service bet-ween the Cities of Iloilo, Bacolod, Cebu, Davao, and Manila," charging therefor rates "very much lower than those authorized" by the Commission for the Company, and praying that the Bureau be required to show cause why no disciplinary action should be taken against it for enforcing or charging rates unauthorized by the Commission, and to submit for approval the schedule of rates of the Bureau in connection with its long distance services, and that the Bureau be restrained from engaging in long distance service until such time as the Commission shall have approved its schedule of rates, or, should the Bureau be allowed to con-tinue rendering said long distance service, that it be required "to adopt, charge and follow the rates schedule authorized" for the Company.

In its answer, the Bureau contested the jurisdiction of the Commission, upon the ground that it (the Bureau) is in op-eration, not for general business purposes, but only to serve governmental needs, and alleged, inter alia, that any income derived by the Bureau from private sources is incidental to the performance of its governmental functions, and that its aim is merely to fill the requirements of public service which other public services can not fully meet.

After appropriate proceedings, the Commission rendered, on November 29, 1965, its aforementioned decision in favor of the Company and against the Bureau. A reconsideration of said decision having been denied, the Bureau

filed the present petition for review, with a prayer that, during the pendency thereof, the execution of the appealed decision be stayed. Upon the filing of said petition, We granted this temporary relief.

The only question for our determination is whether or not the Bureau is a "public service" as the term is used in the Public Service Act, as amended by Republic Act No. 2677, Section 13(b) of which we quote:

"(b) The term 'public service' includes every person that now or hereafter may own, operate, manage, or control in the Philippines, for hire or compensation, with general or limited clientele, whether permanent, occasional or accidental, and done for general business purposes, any common carrier, railroad, x x x wire or wireless communications system, wire or wireless broadcasting stations and other similar public services x x x." [1]

the authority of the Commission being limited to the exercise of "jurisdiction, supervision, and control over all public services" for section 13(a) of Republic Act No. 2677 reads:

"(a) The Commission shall have jurisdiction, supervision, and control over all public services and their franchises, equipment, and other properties, and in the exercise of its authority, it shall have the necessary powers and the aid of public force: Provided, That public services owned or operated by government entities or government-owned or controlled corporations shall be regulated by the Commission in the same way as privately-owned public services, but certificates of public convenience or certificates of public convenience and necessity shall not be required of such entities or corporations: And provided, further, That it shall have no authority to require steamboats, motorships and steamship lines, whether privately-owned, or owned or operated by any Government controlled corporation or instrumentality to obtain certificate of public convenience or to prescribe their definite routes or lines of service."

Caro vs. Rilloraza,[2] described a "business" as "the means by which a party habitually or regularly earns a livelihood or some gain," whereas, in Collector of Internal Revenue vs. Manila, Lodge,[3] we declared that "the plain, ordinary meaning of business is restricted to activities or affairs where profit is the purpose, or livelihood is the motive." Substantially to the same effect is Collector of Internal Revenue vs. St. Paul's Hospital,[4] in which it was held that business is "that which occupies time, attention, and labor of men for the purpose of livelihood or profit."

There is no allegation in the complaint of the Company that the Bureau is engaged in telephone operation, either for the purpose of gain or profit, or as a means of livelihood. In fact, the Bureau is not even authorized to use its income, or any part thereof, and its expenses are met through annual appropriations made by Congress. Indeed, the Bureau has no corporate existence and it is admittedly "discharging a governmental or State responsibility" or function,[5] which, as such, "is not business." [6]

Pursuant to Republic Act No. 51, otherwise known as the Reorganization Act of 1947, the Bureau was created by Executive Order No. 94 of the President, series of 1947, Section 81 of which transferred to the Bureau "(a) all the personnel, powers, functions, activities, appropriations, properties, equipment, supplies, records and documents pertaining to or intended for the electrical communication service under the Bureau of Posts," the duties and functions of which, as well as those enumerated in said Executive Order No. 94, as pertaining specifically to the Bureau of Telecommunications,[7] do not indicate or suggest that the latter has been created for "general business purposes." Indeed, its rates are much lower than those of the Company and, although 20% to 30% of its telephone subscribers are private subscribers, the services given thereto are merely incidental to its governmental function, to meet the telecommunication needs of the Government and the people.[8]

WHEREFORE, it is our considered view that the Bureau of Telecommunications is neither a "public service" nor engaged in the operation of telephone services for "general business purposes," as the two (2) terms are used in the Public Service Act, and, hence, is not subject to the jurisdiction of the Public Service Commission, and that

the appealed decision thereof should be, as it is hereby reversed, and the complaint of the Philippine Long Distance Telephone Company dismissed, with costs against the same.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, and Teehankee, JJ., concur.
Barredo, J., did not take part.

[1] Underscoring ours.

[2] 102 Phil. 61.

[3] 105 Phil. 93.

[4] L-12127, May 25, 1959.

[5] Brief for the Company, pp. 18-19.

[6] Hazen v. National Rifle Ass'n. of America, 101 Fed. 2d 432, 437-438.

[7] "SEC. 79. The Bureau of Telecommunications shall exercise the following powers and duties:

"(a) To operate and maintain existing wire-telegraph and radio-telegraph offices, stations, and facilities, and those to be established to restore the pre-war telecommunication service under the Bureau of Posts, as well as such additional offices or stations as may hereafter be established to provide telecommunication service in places requiring such service;

"(b) To investigate, consolidate, negotiate for, operate and maintain wire-telephone or radio telephone communication service throughout the Philippines by utilizing such existing facilities in cities, towns, and provinces as may be found feasible and under such terms and conditions or arrangements with the present owners or operators thereof as may be agreed upon to the satisfaction of all concerned;

"(c) To prescribe, subject to approval by the Department Head, equitable rates of charges for messages handled by the system and/or for timecalls and other services that may be rendered by said system;

"(d) To establish and maintain coastal stations to serve ships at sea or aircrafts and, when public interest so requires, to engage in the international telecommunication service in agreement with other countries desiring to establish such service with the Republic of the Philippines; and

"(e) To abide by all existing rules or regulations prescribed by the International Telecommunication Convention relative to the accounting, disposition and exchange of messages handled in the international service, and those that may hereafter be promulgated by said Convention and adhered to by the Government of the Republic of the Philippines."

[8] See Bureau of Printing vs. Bureau of Printing Employees Association, L-15751, January 28, 1961.

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